IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 14524 of 2005

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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PARBATBHAI CHHAGANBHAI PATEL (THROUGH P.O.A.) - Petitioner(s)

Versus

STATE OF GUJARAT & 1 - Respondent(s)

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Appearance :

MR ANSHIN H DESAI for Petitioner No(s).: 1.
MR PR ABICHANDANI AGP for Respondent No(s).: 1,2.

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CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 22/08/2005

ORAL JUDGMENT

1. Leave to amend.

2. Rule. Learned AGP Mr.P.R.Abichandani waives service of Rule on behalf of the respondents. At the joint request of learned Advocates appearing for the parties, this petition is taken up for final disposal today.

3. In the present petition, the petitioner has challenged order dated 1st March, 1999 by which the Mamlatdar, Manavadar was pleased to communicate to the petitioner that the Valuation Committee has assessed the market price of the land in question at Rs.1,550/- per sq. mtrs and the petitioner, therefore, should indicate his willingness to pay necessary premium on the basis of this valuation to the authorities within a period of 7 days. The petitioner has also challenged order dated 31st March, 1999 passed by Collector, Junagadh by which it is conveyed to the petitioner that since he failed to communicate his willingness to pay the premium as per the communication dated 1st March, 1999 his application for permission to sell the land is rejected. The petitioner has also challenged an order dated 5th July, 2004 passed by the Additional Secretary (Appeals), Revenue Department, Govt. of Gujarat by which the revision application filed by the petitioner against the order passed by the Collector, Junagadh dated 31st March, 1999 came to be rejected.

4. Except for communicating the petitioner that the Valuation Committee has assessed the market price of the land in question at Rs.1,550/- sq. mtrs., there is no

other detailed order placed on record which would justify the assessment of the market price of the land in question. The petitioner has contended in the present petition that at the relevant time, the price prevailing in the area was much lower than one assessed by the authorities. The petitioner has produced certain materials which according to the petitioner would establish that the correct market price was much lower than Rs.1,550/- per sq. mtrs fixed by the authorities. It is contended that the report of the Valuation Committee was never supplied to the petitioner and the petitioner is unaware about its contents and on what basis such report was drawn. It is further contended that if the petitioner is given opportunity to produce the material on record, the petitioner would be in a position to establish the correct market price of the land in question at the relevant point of time. The learned Advocate for the petitioner also submitted that the petitioner would be willing to pay the proper premium as may be fixed with the relevance to the period during which the application was made with reasonable interest as may be specified by the authorities.

5. Learned AGP Mr.Abichandani submitted that the

authorities had considered the valuation report submitted by the Committee and since nothing is pointed out to suggest that the report was not based on relevant material, no interference is called for.

5.1 Considering the submissions made, it appears that the application of the petitioner came to be turned down only on the ground that he failed to communicate his willingness to pay the premium on the basis of market rate of the land fixed at Rs.1,550/- sq. mtrs. Such willingness was to be indicated within a period of seven days. To turn down the petition only on the ground that the petitioner failed to indicate his willingness within a short span of seven days would be a hyper-technical view of the situation. I have, therefore, examined the petition on its merits. As stated earlier, the case of the petitioner is that the authorities erred in fixing the market price of the land in question at Rs.1,550/- sq. mtrs. The petitioner has relied on some contemporaneous material in support of his contention. Respondents have not produced any material to substantiate the valuation adopted by the authorities. Neither the Valuation Committee's Report nor material in support thereof has been produced on record. Under these

circumstances, I find it appropriate to give one more opportunity to the petitioner to demonstrate before the authorities that the correct market price of the land in question at the relevant point of time was much lower than Rs.1,550/- per sq. mtrs which was adopted by the respondents. For the above purpose, impugned orders dated 1st March, 1999 (Annexure “K”), dated 31st March, 1999 (Annexure “B”) and dated 5th July, 2004 (Annexure “A”) are quashed and set aside. The proceedings are remanded to the Collector for fresh consideration after giving the petitioner an opportunity to produce such material as the petitioner wishes to produce. The Collector shall also supply the copies of the Valuation Committee Report to the petitioner to enable him to make his representation in this regard. After hearing the petitioner not necessarily personally, fresh proceedings may be concluded preferably within a period of four months from the date of receipt of a copy of this order. With the above directions, the petition is disposed of. Rule is made absolute with no order as to costs. Direct Service is permitted.

(Akil Kureshi, J.)

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